



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 181009921-8999-02]

RIN 0648-XS011

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2019 Commercial Closure for Atlantic Migratory Group Cobia**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements a closure for Atlantic migratory group cobia (Atlantic cobia) that are sold (commercial) and harvested from Atlantic Federal waters. NMFS projects that commercial landings of Atlantic cobia have reached the commercial quota. Therefore, NMFS closes the commercial sector for Atlantic cobia in Federal waters on September 4, 2019, and it will remain closed until the start of the next fishing year on January 1, 2020. This closure is necessary to protect the Atlantic cobia resource.

DATES: This temporary rule is effective from September 4, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for Atlantic cobia in Federal waters is managed under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) by regulations at 50 CFR part 697.

Separate migratory groups of cobia are managed in the Gulf of Mexico and Atlantic. Atlantic cobia is managed from Georgia through New York. The southern boundary for Atlantic cobia is a line that extends due east of the Florida and Georgia state border at 30°42'45.6" N. lat. The northern boundary for Atlantic cobia is the jurisdictional boundary between the Mid-Atlantic and New England Fishery Management Councils, as specified in 50 CFR 600.105(a).

Amendment 31 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (Amendment 31) and the implementing final rule removed Atlantic cobia from Federal management under the Magnuson-Stevens Fishery Conservation and Management Act, while also implementing comparable regulations in Federal waters under the Atlantic Coastal Act (84 FR 4733, February 19,

2019). Under the authority of the Atlantic Coastal Act, that final rule implemented the same commercial quota, recreational bag and possession limits, and commercial trip limits in Federal waters as had been in place prior to implementation of Amendment 31.

Atlantic cobia are unique among federally managed species in the southeast region, because no commercial permit is required to harvest and sell them, and so the distinction between the commercial and recreational sectors is not as clear as with other federally managed species in the southeast region. However, for purposes of this temporary rule, Atlantic cobia that are sold are considered commercially caught, and those that are not sold are considered recreationally caught.

As specified in 50 CFR 697.28(f)(1), the commercial quota for Atlantic cobia is 50,000 lb (22,680 kg) in round or gutted weight for the 2019 fishing year, which runs from January 1 through December 31.

The regulations for the commercial sector of Atlantic cobia, specified at 50 CFR 697.28(f)(1), requires that NMFS file a notification with the Office of the Federal Register to prohibit the sale and purchase of Atlantic cobia for the remainder of the fishing year if commercial landings reach or

are projected to reach the commercial quota specified in 50 CFR 697.28(f)(1). NMFS projects that commercial landings of Atlantic cobia will reach the commercial quota on September 4, 2019. Accordingly, the commercial sector for Atlantic cobia is closed in Federal waters beginning on September 4, 2019, and remains closed until the start of the next fishing year on January 1, 2020.

During the commercial closure, the sale and purchase of Atlantic cobia is prohibited. The recreational bag and possession limits for Atlantic cobia, specified at 50 CFR 697.28(e), apply while the recreational sector is open. The prohibition on sale and purchase does not apply to Atlantic cobia that were harvested, landed ashore, and sold before September 4, 2019, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Atlantic cobia and is consistent with the Atlantic Coastal Act and other applicable laws.

This action is taken under 50 CFR 697.28(f)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action is based on the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. 553(b) (B), as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial quota for Atlantic cobia have already been subject to notice and comment, and all that remains is to notify the public of the commercial closure for the remainder of the 2019 fishing year. Prior notice and opportunity for public comment on this action is contrary to the public interest, because of the need to immediately implement the commercial closure to protect Atlantic cobia, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial quota.

For the aforementioned reasons, the AA also finds good

cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 5101 *et seq.*

Dated: August 28, 2019.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2019-18926 Filed: 8/28/2019 4:15 pm; Publication Date: 9/3/2019]